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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,441	03/31/2006	George Marmaropoulos	PHUS030397	9689
24737 7590 02/25/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
EXAMINER				
PAYNE, SHARON E				
ART UNIT		PAPER NUMBER		
2875				
MAIL DATE		DELIVERY MODE		
02/25/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/574,441

**Applicant(s)**

MARMAROPOULOS ET AL.

**Examiner**

Sharon E. Payne

**Art Unit**

2875

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/55/08)  
Paper No(s)/Mail Date 0306
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. The claims are objected to because they include reference characters which are not enclosed within parentheses.

Reference characters corresponding to elements recited in the detailed description of the drawings and used in conjunction with the recitation of the same element or group of elements in the claims should be enclosed within parentheses so as to avoid confusion with other numbers or characters which may appear in the claims. See MPEP § 608.01(m).

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 11-17, 19 and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Steinberg et al. (U.S. Publication 2002/014688).

Regarding claim 1, Steinberg discloses a package that covers at least a portion of a product (Fig. 6), said package having an electroluminescent material (166) arranged on at least a portion of an exterior surface (Fig. 6) and electrical contacts (168) electrically connected to said electroluminescent material (Fig. 6), said contacts being

arranged on a portion of a surface adapted for contact with one of a plurality of shelf contacts and a power source (Fig. 6, see contacts 154).

Concerning claims 2 and 12, Steinberg discloses the electroluminescent material is arranged to display a product logo on the package (Fig. 6, paragraph 0047).

Regarding claim 3, Steinberg discloses the electroluminescent material is arranged to provide a background illumination of the package (paragraph 0042).

Regarding claim 4, Steinberg discloses the electroluminescent material (166) is arranged as a matrix of pixels to display one of static and dynamic predetermined messages (paragraphs 0042-0047).

Concerning claim 5, Steinberg et al. discloses a shelf (Fig. 6) having a series of electrical contacts (154) arranged on an upper surface thereon (Fig. 5), said shelf being adapted for connection with a power source (paragraph 0049), a package (162) that covers at least a portion of a product (Fig. 6), said package having an electroluminescent material (166) arranged on at least a portion of an exterior surface and electrical contacts (168) arranged on a portion of a bottom surface so that when said package is arranged on said shelf, the electrical contacts (168) on the bottom surface of the package 101 are facing the electrical contacts (154) arranged on the shelf (Fig. 6), said package also having the electrical contacts (168) and said electroluminescent material (166) electrically connected.

Regarding claim 6, Steinberg discloses electroluminescent material (166) on said package (162) illuminates when said package (162) is electrically connected to said shelf (Fig. 6) and the power source is connected to said shelf (154).

Concerning claim 7, Steinberg et al. discloses, wherein the electrical contacts (154) of said shelf (156) are arranged only on a front portion of the shelf, so that only when the package (162) is arranged on the front portion of the shelf (156) facing a consumer will the package be illuminated by the system (Fig. 6).

Regarding claim 11, Steinberg et al. discloses at least a portion of the EL material is arranged as background illumination subsystem for the product package (Fig. 4).

Regarding claim 13, Steinberg et al. discloses at least a portion of the electroluminescent material is arranged on the package to display a stationary lighted message (Figs. 6 and 1).

Concerning claim 14, Steinberg et al. discloses at least a portion of the electroluminescent material is arranged on the package to display two or more stationary lighted messages (Figs. 1 and 6).

Regarding claim 15, Steinberg et al. discloses the stationary lighted message comprised of at least a portion of the electroluminescent material blinks on and off (paragraph 0040).

Concerning claim 16, Steinberg et al. discloses at least a portion of the electroluminescent material is arranged on the package to provide a dynamic lighted message (paragraph 0042).

Regarding claim 17, Steinberg et al. discloses a controller (154) that controls a brightness of a display of the electroluminescent material (166) on the package (162).

Concerning claim 19, Steinberg et al. discloses a plurality of shelves (Fig. 1) having a series of electrical contacts (154) arranged on a respective upper surface of each shelf (Fig. 6), a matrix of product packages (162) that covers at least a portion of a product (Fig. 6), each of said packages having an electroluminescent material (166) arranged on at least a portion of an exterior surface and having electrical contacts (168) electrically connected to the electroluminescent material (166) and arranged on a portion of a lower surface of the packages (Fig. 6) so that when said packages are arranged on said shelf, the electrical contacts (168) on the lower surface of each respective package (162) face the electrical contacts (154) arranged on the shelves (Fig. 6), a controller (154) in electrical connection with the shelves (Fig. 6), said controller determining which of the product packages of the matrix are to be illuminated and an amount of illumination displayed (paragraph 0013); wherein said matrix being displayed as an arrangement of pixels so that illuminated messages can be displayed across a plurality of product packages (paragraph 0013, Fig. 6).

Regarding claim 21, Steinberg et al. discloses the steps of (a) arranging a plurality of shelves (Fig. 1) having a series of electrical contacts (154) located on a respective upper surface of each shelf (Fig. 6), providing a matrix of product packages (162) that cover at least a portion of a product (Fig. 6), each of said packages having an electroluminescent material (166) arranged on at least a portion of an exterior surface (Fig. 6) and having electrical contacts (168) electrically connected to the electroluminescent material (Fig. 6) and arranged on a portion of a lower surface of the packages (Fig. 6) so that when said packages are arranged on said shelf, the electrical

contacts (168) on the lower surface of each respective package (162) faces the electrical contacts (154) arranged on the shelves (Fig. 6), and determining by a controller (154—controller and contact) in electrical connection with the shelves (Fig. 6), which product packages (162) of the matrix are to be illuminated (Fig. 6), and an amount of illumination to be displayed (Fig. 6).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinberg et al.

Regarding claim 22, Steinberg et al. does not explicitly disclose further illuminating the matrix of product packages with different amounts of illumination to entice a consumer to choose the most brightly illuminated packages.

Illuminating some packages more brightly is considered to be an obvious variation. Since illuminating the package is well known in the art, it would have been obvious to one of ordinary skill in the art at the time the invention was made to illuminate

some packages more brightly to make them more desirable, since changes in aesthetics require only routine skill in the art. See MPEP 2144.04.

Concerning claim 23, Steinberg et al. does not explicitly disclose the most brightly illuminated packages as being products which are closest to a product expiration date.

Illuminating some packages more brightly, such as those nearest the expiration date is considered to be an obvious variation. Since illuminating the package is well known in the art, it would have been obvious to one of ordinary skill in the art at the time the invention was made to illuminate some packages more brightly to make them more desirable, since changes in aesthetics require only routine skill in the art. See MPEP 2144.04.

Regarding claim 24, Steinberg et al. does not explicitly disclose the most brightly illuminated packages are the most profitable packages arranged on the shelves.

Illuminating some packages more brightly, such as those that are the most profitable, is considered to be an obvious variation. Since illuminating the package is well known in the art, it would have been obvious to one of ordinary skill in the art at the time the invention was made to illuminate some packages more brightly to make them more desirable, since changes in aesthetics require only routine skill in the art. See MPEP 2144.04.

Concerning claim 25, Steinberg et al. discloses said matrix being displayed as an arrangement of pixels (paragraphs 0041 and 0042). Displaying messages across a plurality of product packages used as one or more pixels to create images is considered to be an obvious variation. Since illuminating the packages is well known in the art, it



would have been obvious to one of ordinary skill in the art at the time the invention was made to illuminate one message across a plurality of products to enhance the desire to buy one of them, since changes for aesthetics require only routine skill in the art. See MPEP 2144.04.

6. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steinberg et al. in view of Pyka (U.S. Patent 4,567,834).

Regarding claim 8, Steinberg et al. does not disclose the shelf formed on an incline. Pyka discloses the shelf being formed on an incline so that when the first package facing the consumer is removed, additionally stocked packages will slide forward toward the front portion of the shelf so that a second package becomes illuminated (Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Pyka in the apparatus of Steinberg et al. to automatically slide products to the front. See Fig. 1 of Pyka.

7. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steinberg et al. in view of Laier (U.S. Patent 4,812,831).

Regarding claim 9, Steinberg et al. does not disclose conductive ink. Laier discloses a portion of the electroluminescent material comprising conductive ink (column 4, lines 1-3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Laier in the apparatus of Steinberg et al. to form circuits to form an ESD shield for the EL lamp (column 4, lines 1-13, of Laier).

8. Claims 10 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Steinberg et al. in view of Craford (U.S. Patent 3,947,840).

Regarding claim 10, Steinberg et al. does not disclose nano-leds. Craford discloses a portion of the EL material comprising nano-leds (column 7, lines 60-62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Craford in the apparatus of Steinberg et al. to mix light as desired. See column 10, lines 1-20, of Craford.

Concerning claim 18, Steinberg discloses a matrix of pixels on the package (Fig. 6, paragraph 0042). Steinberg et al. does not disclose a matrix of nano-leds. Craford discloses a matrix of nano-leds (column 7, lines 60-62).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Craford in the apparatus of Steinberg et al. to mix light as desired. See column 10, lines 1-20, of Craford.

9. Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Steinberg et al. in view of Schwarz (U.S. Patent 4,982,176).

Regarding claim 20, Steinberg et al. does not disclose a sensor. Schwarz et al. discloses a sensor that senses when a consumer is within a predetermined distance of

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the matrix and signals the controller so that the controller turns on the illumination and blinks a message to entice the consumer to read the message (column 5, lines 15-45, Fig. 1).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use the configuration of Schwarz in the apparatus of Steinberg et al. to sense when a person is present. See Fig. 1 of Schwarz.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sharon E. Payne whose telephone number is (571) 272-2379. The examiner can normally be reached on regular business hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

11. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

sep

/Sharon E. Payne/

Primary Examiner, Art Unit 2875

